IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

WP(C).No. 23530 of 2007(A)

PETITIONER:

M/S. GODREJ APPLIANCE LTD.,
EDACHIRA, KAKKANAD, NEAR INFO PARK,
KOCHI-30, ERNAKULAM DISTRICT, REP. BY ITS
BRANCH COMMERCIAL MANAGER & AUTHORISED
SIGNATORY MR. P.RAGHAVAN.

BY ADV. SRI.BOBBY JOHN
SRI.TOMSON T.EMMANUEL

RESPONDENTS:

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1. THE COMMERCIAL TAX OFFICER,
COMMERCIAL TAXES, IIND CIRCLE,
RAVIPURAM, ERNAKULAM.

2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, ERNAKULAM.

BY GOVERNMENT PLEADER (SHRI MATHEW J. VADAKKEL)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 23530 OF 2007 A

Dated this the 7th August, 2007

JUDGMENT

Petitioner challenges Ext.P7 order passed by the second respondent, Deputy Commissioner (Appeals) by which the payment of balance tax and interest under the Kerala General Sales Tax Act was stayed on condition that the petitioner remits Rs.40,00,000/= (Rupees Forty Lakhs) by way of tax and furnishing security for the balance amount of tax and interest to the satisfaction of the assessing authority. According to petitioner, insistence of production of Form 25A by the Department is without any warrant in law. Petitioner deals in items which are in the Vth Schedule to the KGST Act. The goods attract tax at two points, namely at the point of first sale and at the point of last sale as indicated more specifically in the Schedule. According to petitioner, petitioner has effected sales to registered dealers and it attracts tax as on the first point, namely the first sale in the State, to registered dealers, at twelve

per cent. The production of Form 25A is necessary only for intermediate dealers, he contends. Petitioner is not an intermediate dealer, is its contention. It is the case of the petitioner that if this aspect were properly considered, petitioner would not be liable to pay any tax at all and it has paid tax in excess. I heard the learned Government Pleader also in the matter. Having regard to all facts, Ext.P7 is modified and instead of Rs.40 Lakhs, it is ordered that the petitioner shall pay Rs.30 Lakhs (Rupees Thirty Lakhs) and for the balance amount the petitioner need only furnish Security as is ordered in Ext.P7. Petitioner is given one week's time to deposit Rs.30 Lakhs as above.

The Writ Petition is disposed of as above.

K. M. JOSEPH, JUDGE

kbk.